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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM NELSON MORGAN,

Defendant and Appellant.

B214718

(Los Angeles County
Super. Ct. No. KA085173)

THE COURT:*

William Nelson Morgan (appellant) appeals from the judgment entered following a jury trial that resulted in his conviction of second degree commercial burglary (Pen. Code, § 459).¹ The trial court sentenced appellant to the low term of 16 months in state prison. We appointed counsel to represent him on this appeal.

The following facts were adduced at trial: On November 17, 2008, at 10:38 a.m., Covina Police Department Officer John Malinoski received a call that someone had triggered the alarm at the Carvin Guitars store, which had been closed for business for almost a month. Officer Malinoski arrived at the scene two minutes later. Officer

* DOI TODD, Acting P. J., ASHMANN-GERST, J., CHAVEZ, J.

¹ All subsequent statutory references are to the Penal Code unless otherwise indicated.

Malinoski saw a white Ford Explorer parked near the backdoor with its engine running. Officer Malinoski also observed a broken lock dangling from the store's backdoor. Appellant emerged from inside the store holding a handful of items, several of which carried the "Carvin Guitars" label. Officer Malinoski saw appellant place the items in the rear seat of the Explorer. The officer detained appellant and searched the Explorer. Inside the vehicle, he found several additional items with the "Carvin Guitars" label and a two foot long crowbar. There was white and gray-colored transfer paint on the crowbar. The paint appeared to match the store's backdoor which had been painted white, and then gray.

At the police station, Officer Malinoski, along with Detective Stacy Franco, read appellant his *Miranda* rights.² Appellant waived his rights, and initially told the officers that a person named Greg Murano (Murano) had paid him \$20 to clean the store. However, appellant later admitted to the officers that life was difficult for him and he stole the merchandise in order to "raise money" at a later date. He also admitted to prying open the backdoor. According to the store manager, the value of the property appellant took from the store was between \$3,000 to \$5,000.

At trial, appellant testified that on November 16, the day before he was arrested, he was looking through the store's dumpster when he encountered Murano, who was wearing a Carvin Guitars hat and shirt. Murano told appellant that if he returned the next morning, Murano would pay him \$20 to run the rug sweeper, clean the bathrooms, and move some items from inside the store to another Carvin Guitars store. The next morning, appellant returned and waited for Murano. While waiting, he recovered multiple items in the dumpster and placed them in his car. After he was done going through the dumpster, he noticed that the backdoor was propped open with a fire extinguisher and that the lock was broken. He went inside and began transferring various items from inside the store into his vehicle, as instructed by Murano, when he was

² *Miranda v. Arizona* (1966) 384 U.S. 436.

stopped by Officer Malinoksi. Appellant denied confessing to the officers and maintained that he was framed for the burglary.

After examination of the record, appellant's counsel filed an "Appellant's Opening Brief [and] Request for Independent Review of Record (*People v. Wende* (1979) 25 Cal.3d 436)" in which no issues were raised.

On September 8, 2009, we advised appellant that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. We received no response from appellant.

We have examined the entire record and are satisfied that appellant's attorney has fully complied with her responsibilities and that no arguable issues exist. (*People v. Wende, supra*, 25 Cal.3d 436, 441.)

The judgment is affirmed.

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